

## **REMARKS/ARGUMENTS**

This letter is responsive to the Office Action mailed on June 26, 2008. Claims 1-23 are currently pending in the application. Reconsideration of the application is requested.

Claims 1 and 13 are amended to present a more literal recitation of the disclosed subject matter. For example, page 7, lines 30-31 of the specification provide explicit support for these amendments.

### **Claims 1-3, 6-10, 12-15, 18-21, 23 rejected under 35 U.S.C. §103**

The Examiner has rejected claims 1-3, 6-10, 12-15, 18-21, 23 for being unpatentable over Bloom (US 6,974,928), in further view of Beane (US 2003/0163388).

### **Claims 1, 13**

The Examiner states on pages 2-3 of the Office Action that Bloom discloses all the elements recited in claims 1, 13, except that Bloom does not explicitly disclose determining if one of said identical products being transported within the delivery circuit has been ordered by one of the purchasers.

However, the Examiner further states that Beane discloses this element (e.g. in para. 41), and it would have been obvious for one possessing ordinary skill in the art to combine the two teachings, the reason for the combination being to “minimize errors by delivering the right product to the right customer and therefore increase customer satisfaction and loyalty.” This position is respectfully traversed.

Beane discloses a self-service order-processing terminal comprising a customer interface for placing food orders, e.g. the aggregate of a video display, a touch screen overlay, speakers, a money dispenser (para. 54). The disclosed terminal further comprises readable memory for storing different computer program modules, including

product and customer databases (para. 61). Beane suggests that storing these databases may be useful for determining whether or not to offer discounts or other types of marketing promotions to particular customers (paras. 65-67).

One additional feature of the disclosed self-service order-processing terminal is that it may be configured to take photographs of customers during the ordering process. Food service workers, it is suggested, may then use the photographs to match customer with order, which may be done in place of, or in conjunction with, an order number printed on the customer's receipt (paras. 41, 68).

As set out on page 3 of the Office Action, the Examiner's position appears to be that Beane's disclosure (in para. 41) of using photographs to match customer with order is analogous to claim 1 reciting determining if one of said identical products being transported within the delivery circuit has been ordered by one of the purchasers. Applicant takes the contrary position that these two elements are in no way analogous.

According to Beane, the disclosed invention relates to self-service ordering terminals and, more particularly, to self-service ordering terminals for restaurants (para. 2). For example, the first stated object of the invention is to provide a self-service order processing terminal and a method of using the same that offers fast, accurate order information (para. 8). In light of these two descriptions, the main idea underpinning the disclosed terminal appears to be providing an alternative means of ordering food as compared to other more conventional means. That is, rather than placing food orders directly with a restaurant employee, customers may instead place their food orders using the disclosed self-service terminal, and then have those orders subsequently delivered to them by the restaurant employee.

Accordingly, and contrary to this position of the Examiner, the use Beane discloses for customer photographs is not to determine if individual food products have been ordered, but rather to more reliably determine which food products have been ordered by which customers specifically. Beane does not explicitly disclose food products being delivered before they have been ordered. That possibility is inconsistent with the disclosed

features of the self-service terminal. Therefore, the same limitation the Examiner concedes of Bloom's disclosure also fundamentally limits Beane's disclosure. Neither reference actually discloses products being delivered before they have been ordered.

In contrast, the method recited in amended claim 1 now explicitly recites determining whether one of said identical products being transported has been ordered by one of the purchasers. The fact of making the determination at all clearly implies that at least one of the said identical products being transported has not yet been ordered. By otherwise disclosing determining which customers specifically have ordered which products, Beane has disclosed a completely different limitation than the one recited in claim 1. Thus it could not possibly have been obvious for one possessing ordinary skill in the art to look to Beane for that element of claim 1.

For at the least the foregoing reasons, Applicant submits that claims 1 and 13 as pending are in condition for allowance.

If however the Examiner finds the foregoing remarks and arguments unpersuasive, then it is respectfully requested that the Examiner provide supplemental reasons supporting the position that claims 1 and 13 would have been obvious in view of the cited references. Applicant specifically requests clarification as to how using customer photographs to more reliably determine which orders were placed by which customers, as disclosed by Beane, is analogous to claim 1 reciting determining whether one of said identical products being transported has been ordered by a purchaser.

Moreover and for greater certainty, even assuming that Beane discloses an analogous feature to claim 1 reciting determining whether one of said identical products being transported has been ordered by a purchaser, Applicant takes the position that combining the teachings of Beane and Bloom still would not have been obvious to one possessing ordinary skill in the art.

According to the Examiner, the combination of Beane and Bloom would have been obvious in order to "minimize errors by delivering the right product to the right customer

and therefore increase customer satisfaction and loyalty." But how matching of customer photographs could be usefully incorporated in the efficient bulk package delivery system disclosed by Bloom is not at all obvious.

Bloom discloses a method and system for bulk package delivery and storage wherein orders are collected, cases are shipped, the cases are assembled into packages and the packages are delivered, either directly to the recipient or else to a distribution centre from which the recipient can pick the packages up at their convenience. The recipients as well as the distribution centres are spread out across a vast territory; the orders are also placed using a variety of different terminal devices and technologies.

The Examiner maintains that using photographs to match customers to their orders would reduce the incidence of products being erroneously shipped to the wrong recipient. Assuming a customer photograph exists, the Examiner may well be correct in this contention. However, it is not obvious how customer photographs could be obtained in the bulk package delivery system. For example, one of the motivating factors behind the disclosed bulk package delivery system is the growing incidence of online consumerism (col. 1, lines 15-19). There is disclosed no obvious way of introducing a device for taking customer photographs, such as the self-service order-processing terminal, to every single customer of the system, when those customers are spread out across a vast territory and orders are placed using a variety of different terminal devices and technologies. In contrast, a self-service order-processing terminal provides a feasible solution for taking customers, when all orders are food orders placed from the same terminal device to one of a finite number of closely located restaurants and all customers are similarly located in fairly close proximity to the restaurants.

More fundamentally, there is provided no obvious reason for looking to Beane's disclosure for such functionality in the first place. Bloom discloses a system and method for bulk delivery of packages; Beane discloses a self-service device for taking and fulfilling food orders. These two fields, like the purposes underpinning the two disclosed inventions, are in no obvious way related. Combining references would therefore not

have been obvious without more explicit teaching or suggestion provided by the references themselves. Such teaching or suggestion is not however present.

For this additional reason and for at least all the foregoing reasons, Applicant submits that claims 1 and 13 are in condition for allowance as pending.

**Claims 2-3, 6-10, 12, 14-15, 18-21, 23**

On account of their dependency on one of claims 1 or 13 and in view of the foregoing remarks, Applicant submits that claims 2-3, 6-10, 12, 14-15, 18-21, 23 are also in condition for allowance as pending.

**Claims 4, 5, 16, 17 rejected under 35 U.S.C. §103**

The Examiner has rejected claims 4, 5, 16, 17 under 35 U.S.C. §103 for being unpatentable over Bloom (US 6,974,928), in further view of Official Notice. This position is respectfully traversed.

On account of their dependency on one of claims 1 or 13 and in view of the foregoing remarks, Applicant submits that claims 4, 5, 16, 16 are also in condition for allowance as pending.

**Claims 11, 22**

The Examiner has rejected claims 11, 22 under 35 U.S.C. §103 for being unpatentable over Bloom (US 6,974,928), in further view of Kennedy et al. (US 7,085,729). This position is respectfully traversed.

On account of their dependency on one of claims 1 or 13 and in view of the foregoing remarks, Applicant submits that claims 11, 22 are also in condition for allowance as pending.

**Final Remarks**

In view of the foregoing remarks, the Applicant respectfully submits that the application is now in condition for allowance, and requests that a timely Notice of Allowance be issued in this case.

If the Examiner believes that a telephone interview would expedite allowance of the application, the Examiner is invited to contact the undersigned at (416) 957-1680.

Respectfully submitted,

**BRIAN ELI BERL ILLION**



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